



PROPOSED RULE MAKING
(RCW 34.05.320)

CR-102 (7/22/01)
Do NOT use for expedited
rule making

Agency: Public Disclosure Commission

- ☒ Preproposal Statement of Inquiry was filed as WSR 04-05-070 & 04-01-147; or
☐ Expedited Rule Making -- Proposed notice was filed as WSR _____; or
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice
☐ Supplemental Notice
to WSR _____
☐ Continuance of WSR _____

(a) Title of rule: (Describe Subject) Title 390 WAC -- Rules relating to sample ballots and slate cards (WAC 390-17-030); status of citizen complaints (WAC 390-37-030); exemptions from political advertising (WAC 390-18-030); explanation and reporting of in-kind contributions (WAC 390-16-207); promise or promise to pay (WAC 390-05-295); personal use of contributions (WAC 390-16-238); citizen action letters (WAC 390-37-041); and PDC regular meetings (WAC 390-12-010).

Purpose: To clarify reporting requirements for candidates and political committees, conform to recent case law and update Commission's regular meeting schedule.
Other identifying information: None.

(b) Statutory authority for adoption: RCW 42.17.370

Statute being implemented: 42.17 RCW

(c) Summary: The proposed amendment to WAC 390-17-030 conforms to updated statute by removing the requirement that federal political committees file C-5 reports if they are currently filing reports with the Federal Election Commission. The proposed amendment to WAC 390-37-030 reinstates section (3) as a result of recent case law. The proposed amendment to WAC 390-37-041 removes reference to the tolling language and conforms to recent case law. The proposed amendment to WAC 390-18-030 exempts political tickers from the "top five contributor" requirement. The proposed amendment to WAC 390-16-207 indicates that in-kind contributions are to be treated the same as cash contributions. A new rule, WAC 390-05-295, defines promise or promise to pay. The proposed amendment to WAC 390-16-238 further defines personal use. The proposed amendment to WAC 390-12-010 updates the location and schedule of regular meetings.

Reasons supporting proposal: The proposed amendments and new rule will clarify the statutory requirements under chapter 42.17 RCW and provide guidance to those entities required to disclose campaign contributions and expenditures.

(d) Name of Agency Personnel Responsible for:

Office Location

Telephone

1. Drafting..... Susan Harris

711 Capitol Way, Room 206, Olympia

(360) 753-1981

2. Implementation.... Susan Harris

711 Capitol Way, Room 206, Olympia

(360) 753-1981

3. Enforcement..... Phil Stutzman

711 Capitol Way, Room 206, Olympia

(360) 664-8853

(e) Name of proponent (person or organization): Public Disclosure Commission

- ☐ Private
☐ Public
☒ Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:
None

(g) Is rule necessary because of:

Federal Law?

☐ Yes

☒ No

If yes, ATTACH COPY OF TEXT

Federal Court Decision?

☐ Yes

☒ No

Citation:

State Court Decision?

☐ Yes

☒ No

(h) HEARING LOCATION:

Commission Meeting Room
Evergreen Plaza Building
711 Capitol Way, Room 206
Olympia, Washington

Submit written comments to:

Susan Harris (sharris@pdc.wa.gov)
Public Disclosure Commission
PO Box 40908
Olympia WA 98504-0908
FAX (360) 753-1112 By (date) May 20, 2004

Date: May 27, 2004 Time: 9:00 a.m.

DATE OF INTENDED ADOPTION: May 27, 2004

Assistance for persons with disabilities: Contact
Ruthann Bryant by May 13, 2004

TDD () _____ or (360) 753-1111

NAME (TYPE OR PRINT)

Susan Harris

SIGNATURE

Susan Harris
Assistant Director

4-6-04

CODE REVISER USE ONLY

COMMUNICATIONS OFFICE
STATE OF WASHINGTON
FILED
APR 6 2004
TIME _____
WSR _____

(j) Short explanation of rule, its purpose, and anticipated effects:
See Summary and Reasons supporting proposal above.

Does proposal change existing rules? ☒ YES ☐ NO

If yes, describe changes:

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by writing to:

telephoning: ()

faxing: ()

☒ No. Explain why no statement was prepared.
The implementation of these rules has minimal impact on small businesses.

(l) Does RCW 34.05.328 apply to this rule adoption? ☐ Yes ☒ No

Please explain: The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application to this rule adoption.

AMENDATORY SECTION (Amending WSR 94-07-141, filed 3/23/94, effective 4/23/94)

WAC 390-16-238 Personal use of contributions--Standard. (1) Except as specifically allowed by chapter 42.17 RCW, any expenditure of a candidate's campaign funds that is not directly related to the candidate's election campaign is a ~~((prohibited))~~ personal use of campaign funds prohibited under RCW 42.17.125.

(2) An expenditure of a candidate's campaign funds shall be considered personal use if it fulfills or pays for any commitment, obligation or expense that would exist irrespective of the candidate's election campaign.

(3) If an activity or expenditure is both personal and campaign related, the campaign may pay no more than the fair market value of its share of the activity or expenditure. For example, if a candidate uses a personal vehicle for campaign purposes, the campaign may reimburse the candidate for:

(a) The prorated share of documented gasoline, maintenance and insurance costs directly related to the campaign's usage of the vehicle; or

(b) The standard mileage rate established by the Internal Revenue Service for those documented miles directly related to the campaign's usage.

(4) Examples of expenditures presumed to be for personal use include, but are not limited to:

(a) Mortgage, rent, utility or maintenance expenses for personal living accommodations;

(b) Clothing purchases and maintenance expenses not related to the campaign;

(c) Automobile expenses not related to the campaign;

(d) Travel expenses not related to the campaign;

(e) Household food items;

(f) Restaurant expenses except for in-person fund-raising or campaign organizational activities;

(g) Tuition payments not related to the campaign;

(h) Admission to sporting events, concerts, theaters, or other forms of entertainment unless the event is primarily related to the candidate's campaign;

(i) Country club membership fees, dues and payments;

(j) Health club or recreational facility membership fees, dues and payments;

(k) Social, civic, fraternal, or professional membership dues, fees and payments unless the expenditure occurs during an election year and membership is required to gain access to the organization's mailing list for campaign purposes or other facilities for the candidate's campaign;

(l) Home or business internet service provider costs;

(m) Home or business newspaper and periodical subscriptions;
(n) Greeting cards to persons who would customarily receive
such cards (e.g., family, friends and business associates).